

## 1252.101

### Subpart 1252.2—Texts of Provisions and Clauses

- 1252.209–70 Disclosure of conflicts of interest.
- 1252.211–70 Brand name or equal.
- 1252.211–71 Index for specifications.
- 1252.210–90 Bar coding requirement. (USCG)
- 1252.213–90 Evaluation factor for Coast Guard performance of bar coding requirement. (USCG)
- 1252.215–70 Key personnel and/or facilities.
- 1252.216–70 Evaluation of offers subject to an economic price adjustment clause.
- 1252.216–71 Determination of award fee.
- 1252.216–72 Performance evaluation plan.
- 1252.216–73 Distribution of award fee.
- 1252.216–74 Settlement of letter contract.
- 1252.217–71 Delivery and shifting of vessel.
- 1252.217–72 Performance.
- 1252.217–73 Inspection and manner of doing work.
- 1252.217–74 Subcontracts.
- 1252.217–75 Lay days.
- 1252.217–76 Liability and insurance.
- 1252.217–77 Title.
- 1252.217–78 Discharge of liens.
- 1252.217–79 Delays.
- 1252.217–80 Department of Labor safety and health regulations for ship repairing.
- 1252.217–81 Guarantee.
- 1252.219–70 Small business and small disadvantaged business subcontracting reporting.
- 1252.220–90 Local hire. (USCG)
- 1252.222–70 Strikes or picketing affecting timely completion of the contract work.
- 1252.222–71 Strikes or picketing affecting access to a DOT facility.
- 1252.223–70 Removal or disposal of hazardous substances—applicable licenses and permits.
- 1252.223–71 Accident and fire reporting.
- 1252.223–72 Protection of human subjects.
- 1252.225–90 Buy American Certificate—steel and manufactured products. (FAA)
- 1252.225–91 Buy American—steel and manufactured products. (FAA)
- 1252.228–70 Loss of or damage to leased aircraft.
- 1252.228–71 Fair market value of aircraft.
- 1252.228–72 Risk and indemnities.
- 1252.228–90 Notification of Miller Act payment bond protection. (USCG)
- 1252.231–70 Date of incurrence of costs.
- 1252.236–70 Special precautions for work at operating airports.
- 1252.237–70 Qualifications of employees.
- 1252.237–71 Certification of data.
- 1252.237–72 Prohibition on advertising.
- 1252.237–90 Requirements. (USCG)
- 1252.237–91 Area of performance. (USCG)
- 1252.237–92 Performance and delivery. (USCG)
- 1252.237–93 Subcontracting. (USCG)
- 1252.237–94 Termination for default. (USCG)
- 1252.237–95 Group interment. (USCG)

## 48 CFR Ch. 12 (10–1–96 Edition)

- 1252.237–96 Permits. (USCG)
- 1252.237–97 Facility requirements. (USCG)
- 1252.237–98 Preparation history. (USCG)
- 1252.237–99 Award to single offeror. (USCG)
- 1252.242–70 Dissemination of information—educational institutions.
- 1252.242–71 Contractor testimony.
- 1252.242–72 Dissemination of contract information.
- 1252.242–73 Contracting officer's technical representative.
- 1252.245–70 Government property reports.
- 1252.247–70 Acceptable service at reduced rates.
- 1252.247–71 F.o.b. origin information.
- 1252.247–72 F.o.b. origin only.
- 1252.247–73 F.o.b. destination only.
- 1252.247–74 Shipments to ports and air terminals.
- 1252.247–75 F.o.b. designated air carrier's terminal, point of exportation.
- 1252.247–76 Nomination of additional ports.
- 1252.247–77 Supply movement in the Defense Transportation System.

AUTHORITY: 5 U.S.C. 301; 41 U.S.C. 418(b); 48 CFR 3.1.

SOURCE: 59 FR 40288, Aug. 8, 1994, unless otherwise noted.

### Subpart 1252.1—Instructions for Using Provisions and Clauses

#### 1252.101 Using part 1252.

(b) *Numbering—(2)(i) Provisions or clauses that supplement the FAR.* (A) Agency-prescribed provisions and clauses permitted by TAR and used on a standard basis (i.e., normally used in two or more solicitations or contracts regardless of contract type) shall be prescribed and contained in the TAR. OAs desiring to use a provision or a clause on a standard basis shall submit a request containing a copy of the clause(s), justification for its use, and evidence of legal counsel review to M-60 in accordance with (TAR) 48 CFR 1201.304 for possible inclusion in the TAR.

(B) Provisions and clauses used on a one-time basis (i.e., non-standard provisions and clauses) may be approved by the contracting officer, unless a higher level is designated by the OA. This authority is permitted subject to:

(1) evidence of legal counsel review in the contract file;

(2) inserting these clauses in the appropriate sections of the uniform contract format; and

## Department of Transportation

1252.211-70

(3) ensuring the provisions and clauses do not deviate from the requirements of the FAR and TAR.

### Subpart 1252.2—Texts of Provisions and Clauses

#### 1252.209-70 Disclosure of conflicts of interest.

As prescribed in 1209.507, insert the following provision:

##### DISCLOSURE OF CONFLICTS OF INTEREST (OCT 1994)

It is the Department of Transportation's (DOT) policy to award contracts to only those offerors whose objectivity is not impaired because of any related past, present, or planned interest, financial or otherwise, in organizations regulated by DOT or in organizations whose interests may be substantially affected by Departmental activities. Based on this policy:

(a) The offeror shall provide a statement in its proposal which describes in a concise manner all past, present or planned organizational, financial, contractual or other interest(s) with an organization regulated by DOT, or with an organization whose interests may be substantially affected by Departmental activities, and which is related to the work under this solicitation. The interest(s) described shall include those of the proposer, its affiliates, proposed consultants, proposed subcontractors and key personnel of any of the entities. Past interest shall be limited to within one year of the date of the offeror's technical proposal. Key personnel shall include any person owning more than 20% interest in the offeror, and the offeror's corporate officers, its senior managers and any employee who is responsible for making a decision or taking an action on this contract where the decision or action can have an economic or other impact on the interests of a regulated or affected organization.

(b) The offeror shall describe in detail why it believes, in light of the interest(s) identified in paragraph (a) of this section, that performance of the proposed contract can be accomplished in an impartial and objective manner.

(c) In the absence of any relevant interest identified in paragraph (a) of this section, the offeror shall submit in its proposal a statement certifying that to its best knowledge and belief no affiliation exists relevant to possible conflicts of interest. The offeror must obtain the same information from potential subcontractors prior to award of a subcontract.

(d) The Contracting Officer will review the statement submitted and may require additional relevant information from the offeror. All such information, and any other relevant

information known to DOT, will be used to determine whether an award to the offeror may create a conflict of interest. If any such conflict of interest is found to exist, the Contracting Officer may (1) disqualify the offeror, or (2) determine that it is otherwise in the best interest of the United States to contract with the offeror and include appropriate provisions to mitigate or avoid such conflict in the contract awarded.

(e) The refusal to provide the disclosure or representation, or any additional information required, may result in disqualification of the offeror for award. If nondisclosure or misrepresentation is discovered after award, the resulting contract may be terminated. If after award the Contractor discovers a conflict of interest with respect to the contract awarded as a result of this solicitation, which could not reasonably have been known prior to award, an immediate and full disclosure shall be made in writing to the Contracting Officer. The disclosure shall include a full description of the conflict, a description of the action the contractor has taken, or proposes to take, to avoid or mitigate such conflict. The Contracting Officer may, however, terminate the contract for convenience if he or she deems that termination is in the best interest of the Government.

(End of provision)

#### 1252.211-70 Brand name or equal.

As prescribed in (TAR) 48 CFR 1210.011, insert the following provision:

##### BRAND NAME OR EQUAL (OCT 1994)

(As used in this provision, the term "brand name" includes identification of products by make and model.)

(a) If items called for by this solicitation have been identified in the schedule by a "brand name or equal" description, such identification is intended to be descriptive, but not restrictive, and is intended to indicate the quality and characteristics of products that will be satisfactory. Offers offering "equal" products (including products of the brand name manufacturer other than the one described by brand name) will be considered for award if such products are clearly identified in the offers and are determined by the Government to meet fully the salient characteristic requirements listed in the solicitation.

(b) Unless the offeror clearly indicates in its offer that it is offering an "equal" product, its offer shall be considered as offering the brand name product referenced in the solicitation.

(c) If the offeror proposed to furnish an "equal" product, the brand name, if any, of the product to be furnished shall be inserted in the space provided in the solicitation, or such product shall be otherwise clearly identified in the offer. The evaluation of offers